



STATE OF WASHINGTON
GAMBLING COMMISSION

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December 17, 2002

TO: Rick Day
CC: Bob Berg
Jerry Ackerman
FROM: Ed Fleisher *EF*
SUBJECT: SPOKANE TRIBE

This memo is in response to your request for a plan for dealing with the Spokane Tribe.

The agency's goal with the Spokane Tribe is very simple: figure out a way to get the Spokane Tribe to enter a compact with the state and to cease its uncompact class III gaming operations. Reaching that goal is not simple. The basic problem facing us is that we lack the legal power or authority to take action against the Tribe. That authority rests with the federal government, the department of justice, and the NIGC. Our power is limited to influencing these federal agencies to take stronger, more aggressive action.

There are a couple of ways we could attempt to influence these federal decision makers. We could do it directly through yourself or Chairman Orr. The stronger approach would be to get the support of key political leaders, such as the Governor, the AG, legislators, Congressman, or U.S. Senators, to exert their influence on the federal agencies.

However, because our options are limited to influence rather than action, we must carefully consider the political consequences and side effects of any action we take, as well as the chances of success for such efforts.

Before turning to recommendations, I want to review the status of the Spokane situation and some related issues.

Tribal Gaming Status: The Tribe continues to conduct gaming at five locations. I won't say any more on this because it is covered in excellent detail in Bob Berg's report of October 31, 2002.

Federal Action Status: I spoke to Asst. U. S. Attorney Jim Shivley this week to get an update on the federal situation. Not much has changed. Following our meeting with Jim, he did contact his NIGC contact in Washington DC. They had no immediate response, but said that they would get back to him. So far, he has not heard back.



As to action by his office, he had nothing new to report. They plan to revisit the issue after the first of the year and decide what to do; hopefully in cooperation with the NIGC.

Nothing new has happened on the pending seizure law suit, because the Colville compact has not been published. Once that occurs, the six-month clock on the current stay order will start to run and Mr. Shivley expects to be in contact with the Tribe's attorney at that point. He does not expect that the Tribe will accept the Colville model. On the other hand, he feels that the economic pressure on the Tribe to do something is increasing. In any case, as things now stand, it will be summer of 2003 before the current stay expires.

Legislative Events: Gaming and Indian gaming will be a hot topic in the next legislative session and possibly on the federal level as well. We need to consider that the actions of the 2003 legislature could substantially change the Spokane situation. Should legislature authorize expanded electronic gaming, there is a significant chance that it could be in the form of lottery VLTs similar to those in Oregon. From a legal point of view, these are slot machines. If that were to occur, the dispute with the Spokane Tribe over random number generator based machines and direct play against the machine would become moot.

Recommendation: My recommendation at this time is to continue to monitor the situation, maintain communications with the federal agencies, brief and keep in contact with the Governor's new legal counsel, and revisit our options after the legislative session. I have discussed this with our AG, and he agrees that given the uncertainties of the legislative session, the clear reluctance of the federal agencies (and the courts) to take aggressive action, and the stay order on the seizure case, now is not the right time to force the issue.